

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FREDERICK JACKSON, ASHLEY NICOLE
JACKSON, a minor, BRIANA
FREDRANIQUE ANNETTE JACKSON, a
minor, and SHAWNA YVETTE MARTIN,

No. C 09-01016 WHA

Plaintiffs,

v.

**ORDER DENYING
PLAINTIFFS' MOTION TO
SEAL THE TESTIMONY OF
ROGER CLARK**

CITY OF PITTSBURG, AARON L. BAKER,
individually and in his official capacity as
Chief of Police of the City of Pittsburg Police
Department, G. LOMBARDI, individually and
as an officer of the City of Pittsburg Police
Department (Badge # 275), C. SMITH,
individually and as an officer of the City of
Pittsburg Police Department (Badge # 285),
P. DUMPA, individually and as an officer of
the City of Pittsburg Police Department (Badge
291), WILLIAM BLAKE HATCHER,
individually and as an officer of the City of
Pittsburg Police Department (Badge # 274),
SARA SPIRES, individually and as an officer of
the City of Pittsburg Police Department,
and DOES 1–100, inclusive,

Defendants.

Plaintiffs' motion to seal the testimony of expert witness Roger Clark is **DENIED**.

Clark's testimony was in open court and a matter of public record. The Ninth Circuit has emphasized that there is a "strong presumption" in favor of public access to court documents. *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). Litigants must present "compelling reasons," beyond good cause, to justify sealing court records. *Ibid*. These reasons must be supported by "articulable facts" identifying both the secrecy interests and how these interests outweigh the public interest in access. *Id.* at 1181.

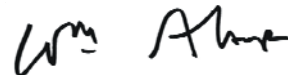
1 Plaintiffs claim that circulation of the testimony will violate California law and injure
2 Clark. But plaintiffs have not identified particular offending instances of testimony and have
3 not narrowly tailored their motion to seal or redact only that testimony. This omission runs
4 afoul of Civil Local Rule 79-5(a).

5 Plaintiffs may make a new, more particularized, motion to seal. But if plaintiffs do not
6 bring a new motion by **NOON ON MONDAY, AUGUST 30**, the Court will order the clerk to unseal
7 the testimony. Plaintiffs are on notice that a new motion must (1) be narrowly tailored in light
8 of the strong presumption in favor of access to court documents, conforming to Civil Local Rule
9 79-5; (2) articulate facts in support of compelling reasons to seal, in accordance with
10 *Kamakana*; and (3) address the extent to which contemporaneous evidentiary objections were
11 made, or not made, and why resolution of any such objections should not also resolve the issues
12 presented by their motion to seal.

13 The hearing set for September 2, 2010, at 8:00 a.m. is hereby **VACATED**.

14
15 **IT IS SO ORDERED.**

16
17 Dated: August 23, 2010.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE